

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

COMMONWEALTH OF
MASSACHUSETTS, *et al.*,

Plaintiffs

v.

CARDTRONICS, INC., *et al.*,

Defendants

CIVIL ACTION NO. 03-11206-NMG

**JOINT MOTION FOR PRELIMINARY APPROVAL OF AMENDED
AND RESTATED CLASS ACTION SETTLEMENT AGREEMENT
AND FOR FAIRNESS HEARING**

INTRODUCTION

Pursuant to Fed. R. Civ. P. 23(e), Plaintiffs, Commonwealth of Massachusetts, National Federation of the Blind (“NFB”), and Jennifer Bose, Bryan Bashin, Robert Crowley, Norma Crosby, Dwight Sayer, Terri Uttermohlen and Raymond Wayne (the “Individual Plaintiffs”), and Defendants, Cardtronics, Inc. and Cardtronics USA, Inc. (jointly “Cardtronics”), hereby submit this Joint Motion for Preliminary Approval of Amended and Restated Class Action Settlement Agreement and for Fairness Hearing.

In support of their Motion, and as fully set forth in the Memorandum of Law in Support of their Joint Motion for Preliminary Approval of Amended and Restated Class Action Settlement Agreement and for Fairness Hearing, the parties state as follows. After more than three years of litigating Cardtronics’ alleged failure to comply with the parties’ 2007 Settlement Agreement and 2010 Remediation Plan, and after lengthy settlement negotiations and multiple mediation sessions before the Court-appointed Special Master, the parties have entered into an

Amended and Restated Class Action Settlement Agreement (“Amended Agreement”). The Amended Agreement is attached hereto as Exhibit A.

In the Amended Agreement, Cardtronics agrees to develop and install enhanced voice-guidance software for its fleet of ATMs on or before March 31, 2017. Cardtronics also agrees to ensure that all ATMs in its existing fleet will have NFB-approved signage. In addition, the Amended Agreement contemplates a robust field inspection and testing program, as well as detailed compliance reporting. The Court-appointed Special Master will serve as “Arbiter” during term of the Amended Agreement to determine, through a rigorous software approval process, whether the enhanced software satisfies the agreed-upon voice-guidance standards and to certify Cardtronics’ compliance with those standards.

In addition, although the Amended Agreement is designed to avoid future disputes between the parties to the greatest extent possible, it provides that any such disputes that may arise will be decided by the Arbiter, which will minimize the expense and delay associated with any attempts to enforce the Amended Agreement. The Amended Agreement provides further that the Arbiter will assess liquidated damages against Cardtronics in the event he finds that Cardtronics has breached the Amended Agreement. The parties have also agreed on a proposed form of Notice of Proposed Amended and Restated Class Action Settlement for publication to the class members, as set forth in Exhibit B.

WHEREFORE, the parties respectfully request that this Court issue an order:

1. Finding that the Amended and Restated Class Action Settlement Agreement is fair, reasonable and adequate, and on those grounds, granting preliminary approval;

2. Holding that the proposed plan to provide notice to the class of the Amended and Restated Class Action Settlement Agreement is the only notice required and that such notice satisfies the requirements of due process and Rule 23;
3. Holding that the schedule and procedures for Class Members to object to the Amended and Restated Class Action Settlement Agreement are fair, reasonable and adequate;
4. Scheduling a Fairness Hearing to determine whether the proposed Amended and Restated Class Action Settlement Agreement is fair, reasonable and adequate and, therefore, whether final approval is appropriate; and
5. Staying the resolution of all pending motions.

A proposed Order is attached hereto as Exhibit C.

Respectfully submitted,

By the Parties:

PLAINTIFF COMMONWEALTH OF
MASSACHUSETTS, MARTHA COAKLEY,
ATTORNEY GENERAL

DEFENDANT CARDTRONICS, INC.

/s/ Genevieve C. Nadeau

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DATED: November 24, 2014

CERTIFICATE OF SERVICE

I, Genevieve C. Nadeau, hereby certify that this Joint Motion for Preliminary Approval of Amended and Restated Class Action Settlement Agreement and for Fairness Hearing, filed through the CM/ECF system, will be sent electronically to the below named registered participants identified on the Notice of Electronic Filing, and that paper copies will be sent to those indicated as non-registered participants, if any, on this date.

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Dated: November 24, 2014

/s/ Genevieve C. Nadeau

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